

STATE OF VERMONT  
PUBLIC SERVICE BOARD

Docket No. 7156

Amended Petition of UPC Vermont Wind, LLC, for a )  
Certificate of Public Good, pursuant to )  
30 V.S.A. § 248, authorizing the construction and )  
operation of a 40 MW wind electric generation facility, )  
consisting of 16 wind turbines, and associated )  
transmission and interconnection facilities, in Sheffield )  
and Sutton, Vermont, to be known as the "Sheffield )  
Wind Project" )

Order entered: 4/1/2011

**ORDER GRANTING MOTION RE: COMPLIANCE WITH CONDITION 6**

On August 8, 2007, the Public Service Board ("Board") issued a Certificate of Public Good ("CPG") authorizing construction of a wind generation facility in Sheffield, Vermont. On October 10, 2008, Vermont Wind, LLC ("Vermont Wind") submitted a blasting plan, pursuant to Condition 6 of the CPG. On January 28, 2009, the Board issued an Order approving the blasting plan.

On February 7, 2011, Ridge Protectors, Inc. ("RPI"), filed a motion requesting that the Board require Vermont Wind to take further actions with respect to Condition 6.

In this Order, we grant RPI's motion and direct Vermont Wind to take additional actions with respect to the blasting plan.

**RPI's Motion**

In its motion, RPI states that the blasting plan submitted by Vermont Wind was insufficient and did not include project or area-specific information. RPI states that it expected the plan to be followed up with a detailed plan. Further, RPI represents that, while blasting for the project has begun, "as far as we know no pre-blast surveys were conducted and no public information session with surrounding landowners was held." RPI requests that the Board require Vermont Wind to take further steps in order to comply with Condition 6 of the CPG.

### Responses to the Motion

On February 23, 2011, Vermont Wind filed a letter stating that the Board approved its blasting plan dated October 10, 2008, and that the CPG does not require additional approvals. Vermont Wind states that it held a public informational session on July 12, 2010, at the Sheffield Town Clerk's Office. Vermont Wind represents that it posted notice of the informational session in the Sheffield Town Office and sent a letter to landowners with residential structures within one-half mile of any proposed blasting activity. Further, Vermont Wind states that it performed pre-blast surveys in September 2010 for each of the landowners who requested such a survey.

Vermont Wind contends that RPI is trying to relitigate issues that have already been decided by the Board.

On March 2, 2011, the Department of Public Service filed a letter stating that "it is the Department's understanding that Vermont Wind has adequately complied with Condition 6."

On March 21, 2011, RPI filed a letter claiming that several nearby landowners did not receive notice of the informational meeting and were not provided an opportunity to have wells and structures surveyed. Additionally, RPI states that Condition 6 requires that the blasting plan developed by Vermont Wind include pre-blast surveys of wells and structures "in the surrounding area" and does not mention a distance of one-half mile.

### Discussion and Conclusion

Condition 6 of the CPG requires:

Prior to performing any blasting for the Project, UPC shall develop a blasting plan that includes pre-blast surveys of wells and structures in the surrounding area and shall arrange for a public information session with surrounding landowners to address concerns related to blasting.

The blasting plan approved by the Board in January 2009 specifically stated that "Vermont Wind will conduct pre-blast surveys of any structures that are within one-half mile of any proposed blasting." The plan states that the one-half mile distance is appropriate as one-half mile is "recommended by the Office of Surface Mining . . . and is considered to be a very conservative distance." We conclude that providing notice to landowners within one-half mile of

potential blasting areas is appropriate. However, we further conclude that Vermont Wind has not provided sufficient notice to potentially impacted landowners.

Vermont Wind's blasting plan states: "Vermont Wind will conduct a pre-blast survey of structures or wells that are within ½ mile of any proposed blasting associated with the Sheffield Wind Project." The letter sent to landowners only informed recipients of an informational meeting on Vermont Wind's blasting plan. The letter did not state that Vermont Wind would survey structures and wells within one half-mile of potential blasting areas or explain the reasons for this requirement.

**Alternative language (that would replace the previous paragraph in its entirety)**

We direct Vermont Wind to attempt to personally contact all residents within one-half mile of potential blasting areas and provide residents with information that specifically explains that the pre-blasting survey is being required by the Board due to the potential for blasting to impact water-supply wells, fully describes the blasting plan, and informs residents of the opportunity to have a pre-blasting survey undertaken. If a resident does not want to have the survey completed, Vermont Wind shall request that the resident sign a letter confirming that the resident has declined to have the survey completed. If the resident chooses not to have the survey completed and also chooses not to sign a letter confirming that they declined to have the survey completed, Vermont Wind shall prepare an affidavit that explains that Vermont Wind spoke with, or took all reasonable attempts to communicate with, the resident and was still not able to obtain a definitive response from the resident. Reasonable efforts would include, at a minimum, an attempt by Vermont Wind staff to personally contact the resident and, if Vermont Wind is unable to personally contact the resident, a certified letter to the resident. After completing this process, Vermont Wind shall send to the Board and parties a list of all residents within one-half mile of blasting activities and indicate the response provided by each resident, and if a resident did not respond, provide an affidavit that describes Vermont Wind's attempts to receive a written response from the resident.

**So ORDERED.**

Dated at Montpelier, Vermont, this 1st day of April, 2011.

<u>s/ James Volz</u>	)	
	)	PUBLIC SERVICE
	)	
<u>s/ David C. Coen</u>	)	BOARD
	)	
	)	OF VERMONT
<u>s/ John D. Burke</u>	)	

OFFICE OF THE CLERK

FILED: April 1, 2011

ATTEST: s/ Susan M. Hudson  
Clerk of the Board

*NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)*

*Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.*